

EDWARD J. MARKEY
7TH DISTRICT, MASSACHUSETTS

COMMERCE COMMITTEE
RANKING MEMBER
SUBCOMMITTEE ON
TELECOMMUNICATIONS, TRADE
AND CONSUMER PROTECTION
BUDGET COMMITTEE
RESOURCES COMMITTEE
(on leave)

Congress of the United States

House of Representatives
Washington, DC 20515-2107

December 14, 2000

2108 RAYBURN BUILDING
WASHINGTON, DC 20515-2107
(202) 225-2836

DISTRICT OFFICES:
5 HIGH STREET, SUITE 101
MEDFORD, MA 02155
(781) 396-2900
188 CONCORD STREET, SUITE 102
FRAMINGHAM, MA 01702
(508) 875-2900

The Honorable Bill Richardson
Secretary
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Dear Mr. Secretary:

I am writing to express my concern over reports that North Korea may be permitted increased access to sensitive nuclear reactor technologies. The U.S. Nuclear Regulatory Commission's (NRC) Weekly Information Report website recently (October 27) featured an item about Combustion Engineering's 10 CFR Part 810 authorization for exports of nuclear reactor technology to North Korea. As you know, Combustion Engineering's technology is currently incorporated in light water nuclear reactors in South Korea, and two similar reactors are currently planned to be built in North Korea pursuant to the U.S.-North Korean Agreed Framework of 1994. Combustion Engineering has now indicated that the original authorization, which was issued in May 1996 and which limited exports to those "necessary for the licensing and safe operation of the reactors and not technology enabling the design or manufacture of nuclear reactor components or fuel," may be too restrictive.

As you know, Part 810 authorizations are issued by the Department of Energy (DOE) to companies wishing to export certain nuclear technology. In making the authorization, the DOE is obligated to seek the concurrence of the Department of State and consult with the NRC and the Departments of Commerce and Defense. This process of review is intended to ensure that such exports do not contribute to the proliferation of nuclear weapons.

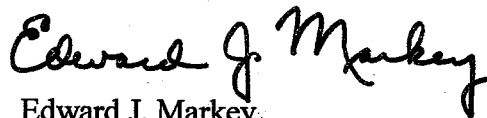
Therefore, I am concerned that the NRC website report implies that Combustion Engineering would be exporting the "technology enabling the design or manufacture of nuclear reactor components or fuel." As you know, the actual export of reactor components or fissile materials are under the NRC's export licensing controls, as described under 10 CFR Part 110. I am concerned that the effect of exporting the technology for the manufacture of these items could be a circumvention of the Part 110 prohibitions. To allow such exports to a country that is currently in violation of its International Atomic Energy Agency (IAEA) obligations under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) would be a grave mistake. To better understand the facts and circumstances in this matter, I request your answers to the following:

- (1) Please explain in what specific ways the new exports would exceed the original Part 810 authorization issued on May 6, 1996. How would the newly proposed technology transfers compare to those permitted under that authorization?

- (2) The Agreed Framework requires that North Korea come into "full compliance with its safeguards agreement with the IAEA" before "key nuclear components" are delivered. Will the new technology transfers enable the manufacture of such components? In other words, could items from the Part 110 list be manufactured?
- (3) Given North Korea's historical noncompliance regarding its nuclear materials, what assurances would we have that North Korea would not seek to use the proposed exported technology to build weapons? Does the DOE believe that such exports may raise significant non-proliferation issues?
- (4) Combustion Engineering's Part 810 authorization is up for renewal in May 2001. Do you anticipate making a decision on a new or revised Part 810 authorization before this date?
- (5) According to the original Part 810 authorization, Combustion Engineering is required to make quarterly written reports on its North Korean activities. Please provide me with a copy of these reports as well as any other relevant briefing materials that Combustion Engineering has provided to the DOE. Additionally, please provide me with copies of Combustion Engineering's original application and any future applications.
- (6) Is it your intention to inform the Congress of your plans before you make your decision?
- (7) What processes does the DOE follow to allow public input and comment on prospective Part 810 authorizations? Does the DOE intend to request public input on the Combustion Engineering request?

I have very serious reservations about the wisdom of pursuing nuclear cooperations with North Korea and do not believe that permitting an expansion of the technologies allowed to be exported to North Korea is likely to be in the U.S. national interest. I therefore appreciate your assistance and cooperation in responding to this request for information regarding this matter. I would appreciate it if you could provide a response to the issues raised in this letter no later than January 12, 2001. Should you have any questions about this request, please contact Dr. Brendan Plapp of my staff at 202-225-2836.

Sincerely,



Edward J. Markey
Member of Congress

Cc: Chairman Richard A. Meserve, U.S. Nuclear Regulatory Commission
The Honorable Norman Y. Mineta, U.S. Department of Commerce
The Honorable William S. Cohen, U.S. Department of Defense
The Honorable Madeleine K. Albright, U.S. Department of State
The Honorable Benjamin A. Gilman, Member of Congress
U.S. House of Representatives International Relations Committee